

CHAPTER 6 - CULTURAL RESOURCES MANAGEMENT

6-1. Purpose. This chapter establishes guidance for the management of collecting, preserving and curating archeological and historical materials at civil works water resource projects, as well as establishing a Historic Preservation Program for construction, operations, and maintenance activities at these locations. It unifies Corps historic preservation activities by the consistent and uniform application of policy administered for the public benefit.

6-2. Applicability.

a. This chapter applies to all USACE commands having responsibility for civil works functions, including construction.

b. USACE requirements for the protection of historic properties in the Regulatory Program are found at 33 CFR Part 325, Appendix C. This engineer pamphlet also applies to all elements and offices involved with the construction, operation, and maintenance of civil works projects under the jurisdiction and control of the Corps of Engineers. This guidance is not applicable to the Corps regulatory program.

6-3. Background.

a. The Congress and the President, as expressed through various statutes and administrative actions, have declared that the protection and preservation of significant archeological and historic resources is in the broad public interest. In carrying out the provisions of law and policy the Corps investigates, evaluates, and recovers data and material from historic properties that could be impacted as a result of civil works undertakings. The historic preservation process does not conclude with the recovery and interpretation of archeological and historical data, but includes long-term curation and management of collections and associated documentation. Unless collections are accessible for scientific research and other appropriate uses, the resources themselves have not been properly managed.

b. Historic preservation is an equal and integral component of resource management at operating civil works projects. As such, historic preservation should be given just and equal consideration along with other resource objectives in preparation and implementation of Master Plan and Operational Management Plan (OMP) documents. It is the responsibility of all Corps elements to coordinate the historic preservation activities outlined in this guidance and other regulations to ensure an integrated natural and historic resources management program. The Corps of Engineers will manage federally owned, administered, or controlled historic properties in a spirit of stewardship for the inspiration and benefit of present and future generations.

c. The recovery of archeological and historic data has generated vast amounts of material remains and associated records. These collections often comprise the only remaining evidence of past human lifeways and will become more valuable for future generations. Preservation of this cultural heritage requires that these recovered materials and their associated records be properly curated and managed. In past years, universities, museums, and other publicly and privately owned institutions have accepted storage and curatorial responsibilities for federally-owned collections at no explicit cost to the government. However, because of plant, personnel, and financial constraints, many institutions can no longer continue to accept these unfunded responsibilities.

6-4. Guidance - Collections Access and Use.

a. USACE collections are to be available for scientific and educational uses by qualified professionals, including access for study, loan and use for such purposes as in-house and traveling exhibits, teaching, public interpretation, scientific analysis and scholarly research. At the discretion of the MSC Commander, collections may also be loaned for religious uses by interested groups with a demonstrated affiliation to the materials in the collection.

b. Collections recovered under cost shared or multi-agency projects shall be managed in accordance with the standards and procedures in this guidance.

c. Collection use is subject to such terms as are necessary to protect and preserve the condition, integrity and research potential of the collection. Collections users granted access to a collection shall be required to adhere to all rules established by the collections management center to protect the collection.

d. To gain access to a collection, or to arrange for the loan of a collection, users shall be required to submit a written request. The request should give the user's qualifications, state user objectives, proposed methods of use, and identify those materials or portions of the collections to be requested. The USACE field commander having primary control of a collection will evaluate the request and determine whether access will be allowed.

e. No collection (or a part thereof) shall be loaned to any person, institution or religious group without a written agreement between the collections management center and the borrower that specifies the terms and conditions of the loan. The agreement shall be subject to approval by the USACE field commander having primary control of a collection. The loan agreement shall specify the material being loaned, the purpose of the loan, the length of the loan, the security and environmental provisions for materials during the period of the loan, and any restriction on scientific, educational or religious uses, including whether any object may be altered, damaged or destroyed.

f. Any exhibits or publications resulting from use of government controlled collections shall acknowledge the collections center as the repository of the collection and the U.S. Army Corps of Engineers as the collection owner or administrator, as appropriate.

g. In accordance with Section 9 of the Archaeological Resources Protection Act (16 USC 470 hh) and Section 304 of the National Historic Preservation Act (16 USC 470 w-3), the District Commander shall restrict access to associated records that contain information relating to the nature, location or character of a prehistoric or historic resource unless the commander determines that such disclosure would not create a risk of harm, theft or destruction to the resource or to the area or place where the resource is located.

6-5. Guidance - Collection Management.

a. To ensure the integrity of material remains and associated records, it is preferable to house collections from a given historic property at a single repository. However, due to such variables as research needs and limitations of space or funding, it may be appropriate to separate parts of collections and use multiple facilities. If a collection is separated, a complete collection catalog shall be maintained at each collections center.

b. Securing Collections Management Services. USACE Commanders may secure collections management services using a variety of methods, subject to Federal procurement and property management statutes. USACE Commanders are advised that contractual arrangements providing for one-time, lump sum payments for longterm collections management are prohibited by 31 USC 3324. Methods that may be used by USACE Commanders include, but are not limited to:

(1) Placing the collection in a collections management center that is owned, leased, or otherwise operated by the U.S. Army Corps of Engineers;

(2) Using a purchase order or entering into a contract with a collections management center which meets the standards of this guidance. Normally such contracts or purchase orders should be of relatively short duration and should apply to initial processing or accessioning.

(3) Entering into a Cooperative Agreement with a state, regional, local, or Native American tribal repository; a university, museum, or other scientific or educational institution that operates or manages a collections center meeting the standards of this guidance.

(a) Cooperative Agreements outline the conditions, duties and responsibilities of all parties for long-term curation and management of collections. These agreements should include preambles, appropriate articles, signature blocks for the USACE field Commander having primary control of a collection and Cooperator(s), and any attachments or appendices.

(b) Cooperative Agreements shall always contain an article entitled Obligations of the Cooperator. This shall detail the collections management services to be provided by the Cooperator.

(c) Cooperative Agreements shall always contain a subsequent article entitled Obligations of the Government. This article shall include the following statement:

"Subject to the availability of funds, the Corps agrees to pay the Cooperator for the total cost of collections management and curation services to be provided in accordance with the obligations agreed to be undertaken by the Cooperator in Article including the applicable costs of operation and maintenance of such facilities and equipment as are required for the provision of such Cooperator services. At the request of the Cooperator, partial payments may be made as the curation and collections management services are performed based on a billings schedule identified in this Agreement and approved by the Corps."

(4) Entering into an interagency agreement with another Federal agency or intra-agency agreement with another USACE Command for collections management services.

(5) Transferring collections to another Federal agency for management, in compliance with the management requirements of 36 CFR Part 79.

c. Procedures for the Assessment and Evaluation of Existing Collections.

(1) The USACE field commander having primary control of a collection shall conduct an assessment of existing collections that are owned or controlled by the Corps of Engineers.

Although the conduct of these investigations may vary between USACE Commands, the following procedures shall be initiated:

(a) All collections and records which were generated by a Corps undertaking and/or removed from Corps project lands shall be identified.

(b) The collections management center where each collection is housed shall be identified. If a collection has been divided, all collection centers, institutions, tribal groups, and/or individuals that retain any portion of the collection shall be identified. When appropriate, collections shall be coalesced.

(c) If a collection or portion of a collection is on loan from the collections management center, the borrowing institution or individuals, the specific loan items, and terms of the loans shall be identified.

(d) If a collection is determined to be missing in whole or in part, with no account of its whereabouts, the assessment and subsequent report shall estimate what materials are missing.

(2) A report containing the assessment findings and a description of the condition of each collection shall be made. Information categories should include, but are not limited to:

(a) The quantity, preservation condition, and cultural affiliation, of all material, including human skeletal remains;

(b) the condition of all associated records;

(c) the degree to which a collection has been prepared cataloged, treated, accessioned, and stored;

(d) the physical state of the collection

(e) a list of all reports and articles generated by the analysis of the collection and its associated records; and

(f) an estimate for each collection specifying the funding and time necessary to attain the collection standards contained in this guidance.

(3) The questionnaire in Appendix O of this guidance should be used to collect the information on existing collections.

d. Standards for Processing and Placing Collections Into Collections Management Centers. The following are standards for the processing, management, and curation of all collections recovered by the Corps of Engineers. The goal of these standards is to ensure that collections will be properly processed, documented, and managed. The standards have been divided into two major categories: material remains and associated records.

(1) When a collection is turned over to a collections management center, an inventory shall accompany the material remains and associated records. The form and content of the inventories may vary between the USACE Commands, however, Appendix P provides sample formats for various types of material remains and records inventories.

(2) Material Remains.

(a) Material remains should be cleaned, stabilized, or conserved as appropriate so as not to preclude specialized analysis.

(b) Material remains shall be cataloged and labeled with the state or Smithsonian-type site numbers and provenience. Items can be grouped by material type, placed in bags with the exterior permanently labeled, and a mylar strip or acid-free paper label with the appropriate provenience information placed within the bag.

(c) In most cases, material remains shall be stored in perforated polyethylene, zip-lock type plastic bags at least 2 millimeters in thickness. Non-acidic or curatorial quality cloth bags are an acceptable alternative, provided they can be securely closed and labeled with the appropriate information, including provenience. For those items requiring special packaging, archivally stable materials shall be used.

(d) All material remains shall be placed in appropriate storage specified by the collections management center. All artifacts shall be housed by material class, artifact type and provenience when possible.

(e) Each box shall contain an inventory listing of its contents keyed to a master inventory of the collection which shall be filed with the collection records.

(f) All artifact storage boxes shall have a label conforming to the specifications of the collections management center. It is required that each box have a clear invoice label holder which protects the box label. Each label or box shall be identified with "U.S. Army Corps of Engineers."

(g) Ancestral human skeletal remains and reasonably acknowledged sacred objects may be provided to affected Indian tribes for reinternment or the Federal government will provide proper treatment and reburial of ancestral skeletal remains and acknowledged sacred objects following consultation with affected Indian tribes and prompt archeological evaluation. Human skeletal remains and objects recognized by appropriate experts as sacred to an identified community shall not be placed on public display.

(3) Associated Records.

(a) Two copies of a project's final report shall accompany each collection. It is recommended that these copies be produced on acid-free paper.

(b) A duplicate set of all field documentation and laboratory analysis shall be produced. One set, on acid-free paper, shall be submitted to the collections management center. These two sets of documentation shall be stored at separate locations within the designated collections management centers.

(c) All pertinent maps used and generated by an archeological project shall accompany each collection. This includes, but may not be limited to, USGS maps, regional and project area maps, survey and excavation maps, collection grid maps, and excavation unit profiles. An inventory of all maps and profiles shall accompany the collection.

(d) Archival and working sets of slides and prints shall be produced for each collection. All photographic materials shall be stored in archivally stable containers or other appropriate method specified by the collections management center.

(e) When appropriate, the collection shall be accompanied by, and inventories shall include:

- A catalog of computer tapes, disks, diskettes, and any other automated data processing materials.

- A list of conserved material remains and associated records with a description of conservation treatments. The list shall also indicate which objects require future conservation treatment.

- A photograph catalog. Photographic materials should be organized by film type (e.g. roll film, sheet film, 35 mm slides, prints, video media) and in chronological sequence.

e. Standards for Collections Management Centers. To ensure that material remains and associated records are preserved in a manner facilitating their future use by the public and scientific researchers, the USACE field commander having primary control of a collection shall ensure that all collections and records are curated at collections management centers which conform to the standards outlined below:

(1) Accession, label, catalog, store, maintain, inventory and conserve collections on a long-term basis using professional archival practices and maintain complete and accurate records of the collection, including but not limited to:

- (a) records on acquisitions;
- (b) catalog and artifact inventory lists;
- (c) descriptive information, including field notes, site forms and reports;
- (d) photographs, negatives, slides, video tapes, audio tapes, computer tapes, disks, diskettes;
- (e) locational information, including maps;
- (f) information on the condition of the collection, including any conservation treatments;
- (g) approved loans and other uses;
- (h) inventory and inspection records, including any environmental monitoring records;
- (i) records on lost, deteriorated, damaged or destroyed property; and
- (j) records on any deaccessions and subsequent transfers, repatriations or discards, as approved by the government.

(2) Dedicate the requisite facilities, equipment and space in the physical plant to properly store, study and conserve the collection.

(3) Keep the collection under physically secure conditions within storage, laboratory, study and any exhibition areas by:

(a) Having a physical plant meeting appropriate electrical, fire, building, health and safety codes;

(b) having an appropriate and operational fire detection and suppression system;

(c) having an appropriate and operational intrusion detection and deterrent system;

(d) having an appropriate emergency management plan;

(e) providing additional security for fragile or extremely valuable collections;

(f) limiting and controlling access to keys, the collection and the physical plant; and

(g) inspecting the physical plant for possible security weaknesses, environmental or pest control problems, and taking necessary actions to maintain the integrity of the collection.

(4) Require staff and any consultants who are responsible for managing and preserving the collection to be qualified collections professionals.

(5) Handle, store, clean, conserve and if exhibited, exhibit the collection in a manner that:

(a) Is appropriate to the nature of the material remains and associated records;

(b) Protects it from breakage and possible deterioration from adverse temperature and humidity, visible light, ultraviolet radiation, dust, soot, gases, mold, fungus, insects, rodents and general neglect; and

(c) Preserves data that may be studied in future laboratory analyses.

(6) Store site forms, field notes, artifact inventory lists, computer disks and tapes, catalog forms and a copy of the final report in a manner that will protect them from theft, fire or other damage such as:

(a) Storing the records in an appropriate insulated, fire resistant location;

(b) Storing a duplicate set of records in a separate location.

(7) Inspect the collection for possible deterioration and damage, and perform those actions as are necessary to stabilize the collection and rid it of any agents of deterioration.

(8) Conduct inventories to verify the location of the material remains, associated records and any other property that is furnished to the collections center by USACE Commanders.

(9) Provide access to the collection by qualified researchers whose proposals have been approved by USACE Commanders.

6-6. Reports and Inspections.

a. Annual reports shall be required of all collections management centers for updating the status of respective collections. Details required in the reports may vary at the discretion of USACE Commanders, depending upon the nature of the collections. The report should include:

- (1) Any changes made to the collections management center.
- (2) Any changes, additions, or alterations of the material remains or to associated records (including loans).
- (3) Problem areas.
- (4) Names and purposes of individuals or organizations having access to the collections in the previous year.
- (5) Citations of any reports, manuscripts, theses, or dissertations resulting from use of the collections.

b. Reports resulting from completion of the existing collections assessments required in paragraph 6-6 of this guidance shall be submitted by the District Commander through the MSC to CDR USACE ATTN: CECW-P no later than four (4) years from the publication date of this guidance. Those reports will be used by the appropriate USACE Command as the basis for determining cost estimates for subsequent budgetary preparations.

c. USACE Commanders shall conduct an on-site inspection of collections management centers at least once every three years. Inspections may be conducted more frequently if deemed necessary to assure maintenance of management standards.

d. Annual reports prepared by collections management centers and all inspection reports prepared by the District Commander shall be submitted for information purposes to the MSC.

6-7. Guidance - Historic Preservation.

a. General.

(1) District commanders should encourage the public use and enjoyment of historic properties under their jurisdiction through such means as restoration and public visitation to historic buildings and properties, archeological sites, educational displays, media shows, interpretive programs and brochures, or through similar means.

(2) Information relating to the location or character of historic properties on project fee or easement lands shall not be released to the public whenever it is determined that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such properties or to the area or place where such properties are located. Commanders must ensure that documents and reports prepared pursuant to this and other Engineer Regulations, including Historic Property Management Plans (HPMP), Master Plans (MP), Operational Management Plans (OMP), and

others have such information excised or removed from them if they are to be released to the public. Exceptions to this policy are authorized by Section 9 of the Archeological Resources Protection Act (ARPA) of 1979 (PL 96-95) upon the written request of the Governor of any state and with specified conditions. This information is specifically exempt from release under the Freedom of Information Act, as specified in 5 USC, 552(b)(3) and 16 USC, 470hh.

(3) On lands held in fee by the Federal government under the administration and jurisdiction of the Corps of Engineers, district commanders shall ensure that historic properties are given full consideration in all management and construction activities. The District Commander has full responsibility within existing statutes, administrative guidelines and policy to protect, preserve, manage, and/or mitigate damage to historic properties on project lands. These responsibilities include but are not limited to the following actions: real estate grants and land disposals, recreational development, wildlife management, construction, and operation and maintenance.

(4) Master and Operational Management Plans. The Master Plan is the document that guides the use, development and management of the natural and manmade resources of a given project. The OMP describes in detail how resource use objectives and concepts prescribed in the Master Plan will be implemented and achieved. Information in the HPMP will be incorporated and implemented through the project OMP. However, pursuant to the requirements of the NHPA, exact location and disposition of historic properties on project fee and easement lands shall not be identified in the Master Plan and OMP if those documents are released to the public (see paragraph 6-7a(2) above).

(5) Paleontological Resources. Treatment and management of natural resources, such as paleontological, geological, scenic, and scientific resources, are not included within the scope of this pamphlet except where paleontologic resources are associated with human activity. When unusual paleontological remains such as fossilized bone-beds or unusual deposits of invertebrate fossils are found on Corps lands, authority to expend funds for recovery or preservation activities may be sought by special request from the District Commander through channels to CECW-ON. While neither vertebrate nor invertebrate fossils are protected under any historic properties legislation, they are protected under 36 CFR 327 and 43 CFR 3.

b. Historic Property Inventories/Site Evaluation. Historic property inventories and site evaluations, where not previously accomplished, should be conducted so that these resources are not inadvertently damaged or destroyed. Inventories are required in order that Corps controlled historic properties can be managed in a systematic and cost effective manner that meets Corps and public needs while ensuring compliance with the NHPA. In addition, completed inventories and evaluations of Corps controlled lands should:

(1) provide resource managers with a complete inventory of historic properties to be managed;

(2) reduce land use conflicts;

(3) eliminate the need to examine, on a case-by-case basis, each individual land parcel to be affected by a management activity or agency undertaking;

(4) provide data needed for preparation of Historic Properties Management Plans, Master and Operational Management Plans, and other management documents;

(5) provide basic data needed for evaluations of archeological and other research proposals;

(6) provide current data on culturally and historically related research topics in order to prevent redundancy in future project planning activities.

c. Construction at Civil Works Projects.

(1) Historic Properties Feature Design Memorandum. When the construction of new features, or major modification of existing features, at civil works projects will result in major impacts on significant historic properties, a Feature Design Memorandum (FDM) shall, at the discretion of the District Commander, be required. It is expected that a Historic Properties FDM may be required only in the event of one or more of the following:

(a) a Historic Property Management Plan has not been previously prepared;

(b) the project will require mitigation of an unusually large number, or a number of unusually complex, historic properties beyond that previously anticipated; or

(c) a significant Post-Authorization Change (PAC) in the project which dramatically alters the anticipated number or type of historic properties to be affected; or dramatically increases the estimated cost or scope of the anticipated historic properties mitigation plan; or increases mitigation costs above the one percent limitation such that specific congressional authorization or waiver of the one percent limitation is required.

(2) The FDM, if required, should address, but not be limited to, such topics as:

(a) rationale for preparation of the FDM;

(b) relevant background data and findings from earlier investigations;

(c) the basis for determining which cultural resources are significant and eligible for inclusion on the National Register of Historic Places;

(d) any proposed mitigation plan for historic properties, and cost estimates for preparation of budget documents (PB-3);

(e) investigations required to complete the historic properties mitigation plan;

(f) historic properties to be preserved;

(g) coordination with the SHPO, the Advisory Council on Historic Preservation (ACHP) and other appropriate groups, agencies, individuals, or affected Indian tribes;

(h) a schedule of preservation activities;

(i) curation of materials;

(j) relationship to the General Design Memorandum (GDM), Real Estate Design Memorandum (DM), Burial Relocation DM, etc;

(k) real estate interest needed to conduct the historic preservation activities.

(3) The Historic Properties FDM, if required, must be initiated as soon as the need for it is recognized. The FDM may form the basis for negotiation of the initial, or renegotiation of any prior, Memorandum of Agreement (MOA) with the SHPO and ACHP pursuant to 36 CFR Part 800. The FDM will be prepared and approved by the District Commander. When approved, it may be submitted to the SHPO, ACHP, or other interested persons for information purposes or compliance with 36 CFR Part 800. Upon approval of the FDM, the District Commander should implement its provisions so as to avoid conflicts between design, construction, real estate, historic preservation, and other project needs and commitments.

(4) If a FDM for historic properties is not required, upon the availability of Construction, General funding the District Commander should informally assess the status of and necessity for implementing, resuming, or altering previous coordination or agreements with the SHPO, ACHP, and other interested persons pursuant to the NHPA and the compliance process specified in 36 CFR Part 800. The District Commander should immediately initiate whatever remedial steps may be required by the vagaries of the particular project to ascertain full compliance with the NHPA and 36 CFR Part 800. When it is determined that full compliance has been effected, the District Commander should implement the mitigation plan.

(5) Responsibility for implementing mitigation plans for historic properties during the construction period in accordance with the FDM and MOA will rest primarily with the Planning element. However, it is the responsibility of Engineering, Construction, Real Estate, and other elements to coordinate with and inform the Planning element of changes in project design and construction, real estate requirements, etc., which may affect historic properties. There may be a need to develop within the district office a formal plan or operating procedure specifying the manner in which historic property mitigation and site preservation will interface with other construction period activities. If such a plan or protocol is determined to be necessary, the District Commander should determine the necessary mechanisms, participating organizational elements, specific element responsibilities, and other necessary details, and determine an appropriate form of documenting such agreements and responsibilities (e.g., formal plan, operating procedure, protocol, intra office memo, etc.).

(6) If individual historic properties require long term maintenance, restoration, or preservation of a specialized nature (i.e., historic buildings, interpretive facilities for historic properties, etc.) a supplemental FDM or letter report should be prepared for the district commander's approval which will include a schedule of necessary maintenance, restoration, or preservation activities.

d. Properties Discovered During an Undertaking.

(1) When a previously unrecorded cultural resource is discovered in the course of construction or while implementing other undertakings, including routine operation and maintenance, the contracting officer or other appropriate official shall, to the maximum extent practicable in the discretionary judgement of the contracting officer, require that any work in the immediate vicinity be halted until the situation is properly evaluated. Every reasonable and prudent effort should be made to avoid or minimize harm to the resource until it is professionally evaluated and the effects on it determined. If the property is determined to be significant, compliance with 36 CFR Part 800.11 must be initiated.

(2) District commanders are urged to include in Memoranda of Agreement and/or Programmatic Agreements with the ACHP provisions for the expedited coordination and disposition of properties discovered during the implementation of undertakings in accordance with 36 CFR Part 800.11.

e. Real Estate Grants. In the event that real estate grants are proposed for lands that have not been surveyed for historic properties, the responsibility for compliance with ER 405-1-12 rests with the Corps. However, the District Commander may allow or require the grantee to conduct necessary surveys at his own convenience and expense. Where the grantee assumes responsibility for conducting such surveys, the proposed plan of action and choice of investigator shall be approved by the District Commander.

6-8. Inventory/Site Evaluation Priorities at Operational Projects.

a. This and subsequent paragraphs guide district commanders in their treatment of historic properties at operational projects, most of which were completed prior to the passage of present day historic preservation legislation.

(1) Many projects contain cultural resources which have not been adequately and systematically inventoried and evaluated, or have been investigated on a haphazard or sporadic basis only. It is the intent of this pamphlet, where not already accomplished, to systematically and in orderly fashion accomplish inventory, evaluation, and any required mitigation studies to achieve full compliance with NHPA and related statutes.

(2) Budgetary and manpower constraints dictate that this undertaking may not be immediately accomplished. However, district commanders are to implement a program, upon availability of funds, to accomplish an inventory of cultural resources and site evaluation at each civil works water resource project under his jurisdiction and administration in order to comply with Congressional mandate, to prevent or reduce land use conflicts, and to ensure protection of historic properties. It is the responsibility of district commanders, in consultation with MSC commanders, to prioritize and schedule these investigations in accordance with the particular needs and requirements of each district and operational project.

(3) Volunteer Services. In some circumstances it may be mutually beneficial to the government and the public to utilize the services of volunteers pursuant to PL 98-63, implemented by ER 1130-2-500, Chapter 10. Volunteer services may be particularly useful in alleviating budgetary, time, or personnel constraints by conducting cultural resource investigations, including laboratory work. Volunteers should at all times be closely supervised by qualified Corps staff or contractors. In addition, guidelines and requirements should be developed for each volunteer project performed. Programmatic guidelines can be prepared for large scale or long term efforts. Corps staff preparing these volunteer guidelines should consult other agencies for assistance. The National Park Service's Volunteers in the Park (VIP) and the U. S. Forest Service's Passport in Time programs are excellent.

b. Establishing Priorities. The District Commander should establish a program to assess priorities and needs to complete historic properties inventories at each operational water resource project. Priority should be given to inventory and evaluate sites and areas that are being directly impacted or affected. The following criteria, listed in no particular order of importance, are suggested for use in determining project specific priorities. This listing is not all inclusive; district commanders should use these or other criteria as appropriate to the situation.

- (1) Imminence and degree of project related impacts.
 - (a) pool fluctuation
 - (b) outgrants and real estate requirements
 - (c) minor construction
 - (d) recreation development
 - (e) rate and nature of site erosion
 - (f) visitor and public use impacts
 - (g) fish and wildlife management activities
- (2) Adequacy of existing inventory and evaluation data.
- (3) Significance of known historic properties.
- (4) Public or institutional interest or concern.
- (5) Master Plan needs/update and schedules.
- (6) Redundancy of data collection.
- (7) Imminence of natural impacts.
- (8) Vandalism.
- (9) Views of the SHPO, ACHP and the affected Indian tribes.

c. District-wide Priority Plan. To accomplish inventories and site evaluations in an orderly and cost effective manner, district commanders should prepare for in-house use, a brief district wide plan for meeting historic preservation objectives at all operational projects under his jurisdiction. This plan should briefly assess and summarize problems and requirements, establish broad priorities, and identify gross estimated funding requirements by project(s) and year(s) to accomplish necessary inventory and site evaluations. This plan must consider such work already accomplished, and may benefit from input from the appropriate SHPO(s). This is to be a flexible and dynamic "working" document, intended to assist the district in organizing, planning, and structuring future efforts. As such, it should be changed and updated as required to aid the overall planning effort. Copies should be provided to the MSC Commander for review and comment. CENED and CEPOD shall submit plans to CECW-ON for review and comment.

d. Letter Reports. Not later than one year after final publication of this guidance, each District Commander should prepare an initial Letter Report on Historic Preservation objectives to include all operational projects within his jurisdiction. The purpose of this Letter Report is to provide a systematic and comprehensive long-term plan to complete historic property inventories and site evaluations required for each operational project in order to prepare the Historic Property Management Plan (HPMP) for each project. Smaller units or sub elements of a single, larger

project (such as a large navigation system) may be treated as a single project for this purpose, at the discretion of the District Commander. The Letter Report should build upon and expand the information included in the district wide priority plan, and present a clear and defensible plan of action for each project, including implementation schedules and gross estimated funding requirements by project and year. The Letter Report may be updated and revised, as required by the District Commander to reflect changing project activities and priorities, work accomplished, or other circumstances. Draft Letter Reports should be coordinated with appropriate SHPO(S) for review and comment. Final Letter Reports will be approved by the District Commander, RCS exempt: AR 335-15, paragraph 5-2i.

e. Corps projects with limited or no real estate interests. Previous paragraphs refer primarily to operational projects with large government landholdings, particularly reservoir projects that are managed and operated by the Corps or leased to and managed by other Federal, state or local agencies. Other Corps projects may require no or only limited post construction historic property activities, unless conditions change or new work is proposed such as under Section 1135.

(1) Navigation projects. No post construction investigations are required unless the Corps retains lands, easements, structures, or there are impacts to historic properties attributable to Corps operations. Where the Corps owns locks, dams, other structures and appurtenances, as well as adjacent lands, these properties should be subjected to cultural resources investigations. New disposal areas should be investigated in accordance with 33 CFR Part 336.

(2) Local Flood Protection Projects. When local sponsors furnish lands, easements, and rights-of-way, or disposal areas for construction, and retain land ownership and project maintenance after construction is completed, no post construction investigations are required.

(3) Beach Erosion Control, Beach Nourishment. These projects are subject to the provisions of ER 1105-2-100 during the planning and construction periods. The Corps has no responsibility or authority to conduct cultural resource investigations unless it retains a real estate interest or unless there exist project induced impacts to historic properties.

f. Historic Properties Management Plan.

(1) General. Each Corps District should develop a Historic Properties Management Plan (HPMP) for each operational project under its jurisdiction and control and incorporate it into the project OMP. The purpose of this document(s) is to provide a comprehensive program to direct the historic preservation activities and objectives at each project, and to effectively manage and protect each historic property. The HPM element will work in close coordination with other district elements, project and field managers, SHPOs, and the interested public to ensure an integrated approach to the management of all project resources. Periodically, it may be necessary to update the HPMP by integrating new data collected through subsequent investigations. This, too, is intended to be a dynamic, "working" document, which may go through several or many iterations as circumstances and Operational Management Plans (OMP) change and evolve.

(2) Required Elements. Minimally, each HPMP should include the following elements and/or activities:

(a) A list of identified historic properties, either in descriptive or tabular form, that includes data pertinent to the purposes of the HPMP. Detailed supporting documentation need not be included in the HPMP, but may be appended as necessary. Exact details are at the district's discretion.

(b) Maps showing site locations, as well as surveyed and unsurveyed portions of project lands. (Maps may be kept separate, or prepared as an overlay to the project OMP compartment maps. Site locations must generally not be released to the public).

(c) A description of field investigations conducted and methods used to identify and evaluate cultural resources.

(d) A discussion of existing or potential impacts on identified historic properties and unsurveyed portions of project land. This will include a description of past, present, and future land use, recognizing resource management capabilities and limitations.

(e) The National Register status of all identified historic properties.

(f) Identification of site ownership (fee or easement property) and site management (Corps managed, leased, or outgrant property).

(g) A ranking and scheduling of historic preservation priorities and activities for identified resources. Management decisions may require absolute exclusion of any activity on the site and/or specialized types of preservation techniques to prevent, reduce, or mitigate impacts due to natural or project related impacts. In circumstances where investigations result in data which may be of particular interest to the public, historic preservation activities should include the preparation, by staff and/or contract, of brief but informative brochures, slide shows, or other media documentation for public presentation.

(h) A preliminary cost estimate necessary to accomplish remaining activities.

(i) The views of the SHPO.

(j) Relationship between HPMP and the SHPOs Statewide Comprehensive Historic Preservation Plan, if available.

(k) Relationship to the Master Plan and OMP for the project.

(l) Discussion and prioritization of investigations yet to be completed.

(m) Evidence of consultation with affected Indian tribes.

(3) Implementation.

(a) As with other resources on Corps managed lands, the management, preservation, and protection of historic properties rests with the Operations element acting on behalf of the District Commander. The operations element is thus responsible for the budgeting of funds, preparation and coordination of all necessary reports and documentation, and all other required activities. However, it is expected that much or most technical guidance and support will be provided by planning element archaeologists or historic property specialists, Intergovernmental Personnel Act

(IPA) personnel, and/or contracting with qualified firms, institutions, or persons. Operations and Planning elements will closely coordinate and cooperate in these undertakings. If necessary, the District Commander will assign specific implementation responsibilities in accord with the needs and demands of their particular organization.

(b) Project and Resource managers are urged to designate one or more project staff members as a liaison between the District and field office regarding all historic preservation matters. Designees should become trained and knowledgeable of historic properties at their projects. District commanders are urged to provide opportunities for training of personnel in the areas of historic preservation laws, regulations, historic property identification, and/or evaluation.

(c) Emergency Activities. In the event of a major natural disaster or an imminent threat to the national security, the Chief of Engineers is empowered to waive, in accordance with 36 CFR Part 78, the requirements of Section 110 of the NHPA. Compliance with Section 106 of the NHPA may be obtained by district commanders in such Emergencies by notifying, within seven days, the ACHP and appropriate SHPO in accordance with 36 CFR Part 800.12(b). These waivers do not apply to undertakings that will not be implemented within 30 days after the disaster or emergency.

g. Excess Lands.

(1) When lands identified for potential excess have not been subjected to historic properties inventory or evaluation studies in accordance with the NHPA, such studies must be undertaken to determine whether such significant properties are present and would be adversely impacted by declaring those lands to be excess. These studies will be conducted under the authority of the NHPA using O&M funds. These costs will be included in determining whether the disposal action would provide a net return to the Treasury.

(2) All excessing actions must be in compliance with Section 106 of the NHPA and with 36 CFR Part 800.

6-9. Enforcement Actions.

a. District commanders may utilize Title 36, Part 327, 14(a), which provides protection for historic properties and public property or the Archeological Resources Protection Act of 1979 (ARPA), whichever is appropriate.

(1) Enforcement under 36 CFR Part 327. The maximum fine for the offense, if convicted under Title 36, is \$500.00 and/or six months imprisonment. Since the value of historic properties and associated costs resulting from unauthorized activities usually exceeds the maximum fine under Title 36, the enforcement actions necessary to investigate, prepare cases, and apprehend violators may be more appropriately handled by others under provisions of the Archeological Resources Protection Act.

(2) Archeological Resources Protection Act of 1979 (ARPA), ARPA provides for criminal penalties up to \$100,000 and/or five years imprisonment, and allows for forfeiture to the Federal government of equipment and vehicles used in unauthorized activities. In addition, civil penalties may be assessed to recover federal costs in repairing or restoring historic properties, accomplishing research and preparing reports. District commanders shall follow procedures

outlined in ER 190-1-50 to obtain services of the Criminal Investigation Command (CID) for such investigations.

b. District commanders shall follow procedures outlined in ER 190-1-50 to obtain services of the Criminal Investigation Command (CID) for such investigations. Commanders may also obtain services of the appropriate U.S. Marshal for immediate attention to suspected or known felony acts.

6-10 Funding.

a. Costs for collections management and curation associated with all Federal historic preservation activities at water resources development projects operated and maintained by the Corps of Engineers are full Federal costs. Funding requests shall be included as part of the Operation and Maintenance budget submittal for each fiscal year.

b. Costs for collections management and curation associated with existing collections recovered from non-Corps or previously owned Corps lands, but retained under Corps control, are a full Federal expense.

c. For completed Corps of Engineers projects the statutory one percent limit established by Section 7 of PL 93-291 has been categorically waived by the Secretary of the Interior. This waiver applies to all completed Corps projects, regardless of the date such project reaches the "completed" status.

d. Funds for historic preservation must be budgeted in accordance with the guidance set forth in the Annual Program and Budget Request for Civil Works Activities Engineer Circular.

FOR THE COMMANDER:

16 Appendixes
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OTIS WILLIAMS
Colonel, Corps of Engineers
Chief of Staff